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United Nations Relief and Works Agency for Palestine Refugees in the Near East

Letter dated 4 November 2002 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General

I have the honour to attach herewith the text of the Government of Israel's response to the report of the Commissioner-General of UNRWA for the period from 1 July 2001 to 30 June 2002 (A/57/13).

I should be grateful if you would arrange to have the text of this letter and its attachment circulated as a document of the General Assembly under agenda item 76.

(*Signed*) Yehuda **Lancry**
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Response of the Government of the State of Israel to the report of the Commissioner-General of UNRWA for the period from 1 July 2001 to 30 June 2002 (A/57/13)

1. Israel appreciates and supports the important humanitarian work carried out by UNRWA and continues to facilitate, to the best of its ability, the carrying out of the mandate of the Agency, despite the fact that Israel has been faced with an unprecedented wave of terrorism and violence initiated by the Palestinian side.

2. The dialogue of cooperation and interaction between UNRWA and Israel has, however, remained unaltered, and in many ways enhanced, since the outbreak of the current violence in September 2000. This dialogue is conducted through contacts on the political, diplomatic, military and humanitarian levels, aimed at facilitating the efforts of UNRWA to fulfil its mandate. It is clear that in the extraordinary circumstances prevailing in the region, differences of opinion have arisen and will continue to arise in this ongoing dialogue. However, the commitment to finding pragmatic and direct solutions to problems arising in the field remains, and should continue to be the only, basis of such cooperation in discussing the obligation to cooperate and facilitate UNRWA's activities.

3. The report details extensively the difficulties and impediments encountered due to disagreements on the "scope or application of the consideration of military security to which this obligation has been subject". However, nowhere within the report does UNRWA acknowledge Israel's security constraints in the West Bank and Gaza and its need, on the basis of military necessity, to protect its citizens against a concerted policy of terror.

4. Paragraph 3 of the report states that "[s]ince February 2002, there was a major upsurge in the level of violence, characterized by a pattern that included suicide bombings by Palestinian militants in Israel and the occupied Palestinian territories, causing heavy loss of life ...". This description fails to capture the full scope of the situation in the West Bank and the Gaza Strip. Indeed, suicide bombings, which constitute a crime against humanity and are contrary to basic norms of international law and fundamental human values, have accounted for about 250 of the over 600 Israeli fatalities since September 2001[1]. They do not, however, encompass the entire range of lethal means instigated by Palestinian terrorists in an effort to kill and wound Israeli civilians and Israel Defence Forces (IDF) personnel.

5. Over the past two years, over 14,200 attacks have been launched by Palestinians against Israeli citizens and security personnel, including live-fire shootings, rockets and mortars, explosive devices, fragmentation grenades and Molotov cocktails and knife attacks. The scale and intensity of these varied attacks has been such as to amount to an armed conflict short of war. This has not been a civilian disturbance, demonstration or riot. It is characterized by well-armed and organized terrorist groups, operating from areas outside Israeli control, and using various means to inflict death and injury upon Israeli citizens, in a strategic attempt

[1] All figures are updated to September 2002.

to achieve political goals. To date, as a result of Palestinian terrorism, 610 Israeli citizens have been killed and more than 4,400 have been wounded.

6. Faced with this reality, the State of Israel is obliged to realize its right and duty to act in self-defence and to utilize the requisite military measures in accordance with the laws of armed conflict.

7. It is within this context that the report attempts to account for the activities of UNRWA in the region during the reported period. It would have been both appropriate as well as accurate had the report more clearly taken note of Israel's security situation and legitimate concerns as well as the need for increased coordination.

8. The recognition of this necessity is embodied in the 1967 Comay-Mitchelmore Exchange of Letters between the Government of the State of Israel and UNRWA:

> "... [T]he Israeli Government will facilitate the task of UNRWA to the best of its ability, subject only to regulations or arrangements which may be necessitated by considerations of military security."

This basic recognition by UNRWA of the security needs of Israel does not find expression in the current report.

9. Bearing in mind these general remarks, Israel offers the following comments regarding several specific issues in the report:

10. At the outset, Israel wishes to express its deep concern over the admission, in paragraph 174 of the report, that UNRWA — a United Nations body — submits importation documents to the offices of the Arab Boycott as a matter of standard procedure in Syria. This complicity by a United Nations agency with the illegal boycott by a Member State is inconsistent with the principle of neutrality as well as a contravention of the principle of sovereign equality of States as embodied in the United Nations Charter and other basic norms of international law. The statement that UNRWA "should not be subjected to this requirement" is a gross understatement of the gravity of the admission. The United Nations cannot permit this situation to continue, and anything less than a clear and aggressive opposition to this illegal policy should be unacceptable.

11. The report raises claims of damage caused to civilian property and UNRWA installations, buildings and vehicles. In this regard, IDF forces do not target the civilian population and its property, including UNRWA installations. IDF soldiers and officers are regularly briefed regarding the location of UNRWA installations and instructed to refrain from directing fire towards such installations.

12. Nevertheless, the laws of armed conflict require that the civilian population, its property and installations, enjoy protection as long as they take no direct part in hostilities. During the past year, as specifically mentioned in the report, Palestinian terrorists have made use of UNRWA installations and premises, illegally exploiting the protection conferred upon such locations, so as to use them as military objects from which to launch attacks against Israeli citizens and soldiers. In so doing they have placed such locations and installations in danger. Israel is encouraged that UNRWA states that it has taken steps to prevent such activity, and trust that further measures will be taken, as it is in the best interest of all the parties involved.

13. Directives have been given to IDF officers to ensure that UNRWA installations are not entered unless such incursion is warranted by imminent military necessity, and that any interruption or damage caused to such installations is kept to an absolute minimum. When possible, considering the circumstances in the field, prior cooperation will be requested from the Agency's Headquarters.

14. Regrettably, the report does not make mention of the activity of armed terrorist elements within the refugee community and the use of refugee camps as a base for Palestinian terrorist activity. Undoubtedly, the mandate of UNRWA does not include security or the general overseeing of the affairs of the various refugee camps. Yet, while the report extensively depicts the damage caused by Israeli military operations to the camps, it appears to have totally ignored such illegal and improper use of UNRWA refugee camps for terrorist purposes, which are the primary cause of the danger posed to civilian refugees.

15. In recent years, the United Nations Security Council has made a number of clear statements regarding the unacceptability of using refugees and other persons in refugee camps for military purposes. In resolution 1296 (2000), the Security Council called upon the Secretary-General to inform it of instances where refugee camps are left open to the entrance of armed elements. Despite the events of recent months in these camps, and the clear findings of the report of the Secretary-General (A/ES-10/186) on these events, no such reference is made, or protest lodged, concerning this situation in the current report.

16. The ramifications of this on the Palestinian civilian population were particularly evident during the events that took place during March and April 2002, when the IDF was required to take military action against the terrorist infrastructure in the refugee camps of the West Bank. During the operation, Palestinian terrorists took refuge amongst the civilian population in the refugee camps. The terrorists acted in clear violation of resolutions as well as the laws of armed conflict, booby-trapping civilian buildings in the camp, and turning it into a base for armed operations. These, and other actions, caused damage to Palestinian civilian population and property and intentionally caused civilians to be placed in a combat environment. It would have been expected that the report include reference to the danger caused to refugees by the illegal activity of Palestinian terrorist groups who have used them as human shields.

17. Despite the situation on the ground, wherever possible, extensive efforts have been made to assist UNRWA, with a view to facilitating the Agency's humanitarian operations. For example, since January 2002 in the Gaza Strip, UNRWA vehicles were permitted to pass in over 250 instances through checkpoints closed to civilian traffic. This coordination enabled the free movement of approximately 6,000 UNRWA local and international staff. The movement of ambulances, emergency personnel, food distribution vehicles and medical supplies was coordinated whenever necessary.

18. In numerous instances, the free passage of UNRWA international staff through entry points was exceptionally coordinated in spite of the lack of proper documentation.

19. Regarding the detention of local staff, no legal or administrative procedures are taken against UNRWA Palestinian staff on the grounds of their being employed

by the Agency. If any action is taken, it is based solely on suspected involvement in security-related offences.

20. Israeli security personnel have encountered several incidents during the past two years in which Palestinian terrorists have used ambulances bearing international protective symbols, such as the Red Crescent, in an attempt to smuggle weapons, munitions, and armed militants, including suicide bombers. These gross violations of basic norms of international humanitarian law oblige IDF forces to conduct inspections of ambulances and United Nations and diplomatic vehicles. This situation has been conveyed to UNRWA on several occasions, and the legal aspects of this policy were clarified.

21. Israeli officials, from Ministerial level downwards, have been continuously available to meet and coordinate matters with UNRWA officials regarding both general and practical issues arising out of UNRWA operations. For example, Israeli coordination officials continuously facilitate the movements of patients in need of urgent or chronic medical treatment to the various hospitals in the Territories and in Israel, the movement of medical personnel and ambulances, and the replenishing of vital medical equipment and supplies. Israel remains committed to such coordination even in times of increased security alert and widespread military activity, which can impose great difficulties on such coordination efforts.

22. Israel also goes to considerable lengths to provide and coordinate humanitarian assistance to the Palestinian population. For instance, since January 2002, 986 UNRWA containers containing 193,854 tons of supplies have been admitted to the Gaza Strip through the Sufa and Karni Crossings.

23. Following the total closure of the Karni Crossing, due to repeated Palestinian shooting incidents and intelligence reports indicating an immediate threat to the Crossing, the Sufa Crossing was used for the exceptional passage of UNRWA and World Food Programme containers of humanitarian supplies.

24. Israel has, in a spirit of good will, approved the import by UNRWA of food assistance in the form of sunflower oil manufactured in the Islamic Republic of Iran, a country which maintains a state of hostility with Israel and import from which is prohibited by Israeli law.

25. Furthermore, Israel has taken creative initiatives in supporting UNRWA's humanitarian task. The notorious "Karine A" ship that was seized by the IDF while attempting to smuggle arms and ammunition to the Palestinian Authority was also found to carry approximately 120 tons of rice and other equipment. For humanitarian reasons, Israel approached UNRWA and is jointly coordinating the distribution of the provisions to the Palestinian population.

26. As an illustration of Israel's commitment to facilitate UNRWA's humanitarian mandate, it is noteworthy that during the reporting period and afterwards, a United Nations professional team, after prior coordination and assistance by Israel, is clearing explosives and booby-traps planted in civilian areas by Palestinians, which remained in the densely populated Jenin refugee camp. This operation involves the use of large quantities of explosives and other dangerous materials by the team in the refugee camp. Israeli assistance includes the supplies for the work of the team, the allocation of warehouses for the storage of such supplies and the coordination of the operations of the United Nations team in the refugee camp.

27. In conclusion, Israel remains fully committed to its obligations to assist the humanitarian activities of UNRWA, and will continue to explore pragmatic solutions to facilitate such activity. Israel hopes that UNRWA will seek ways to operate within the terms of its mandate, to continue its humanitarian mission, with due regard and sensitivity to the difficult security situation on the ground. The Government of the State of Israel welcomes the humanitarian assistance granted by UNRWA to the Palestinian population in the West Bank and the Gaza Strip and expects due consideration on the part of the Agency of Israel's security constraints.